



CITY of MALDEN PLANNING BOARD
NOTICE of DECISION

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CITY CLERK'S OFFICE
MALDEN, MASS.

CASE NUMBER 15-22

LOCATION of SUBJECT PROPERTY 341 Forest Street, Malden, MA

NAME of PETITIONER Volunteers of America of Massachusetts, Inc.

NAME of OWNER City of Malden

DATE of PUBLIC HEARING December 9, 2015

DATE of DECISION December 9, 2015

DATE of FILING DECISION with CITY CLERK December 23, 2015

DATE of NOTIFICATION to BUILDING INSPECTOR December 23, 2015

FINAL DATE for FILING APPEAL of DECISION with SUPERIOR COURT January 12, 2016

[Any appeal must be made pursuant to M.G.L. c. 40A, §17 and filed within 20 days after date this Notice is filed with City Clerk.]

PROCEDURAL HISTORY (Case #15-22):

1. Petitioner is Volunteers of America of Massachusetts, Inc., 441 Centre Street, Jamaica Plain, MA 02130.
2. Owner is the City of Malden, Malden Government Center, 200 Pleasant Street, Malden, MA 02148.
3. The petition seeks to amend the special permit and conditions 5,7,19 and 26 thereof granted in Case #15-09 under §§700.1.3.1 and 700.13, Chapter 12, Revised Ordinances of 1991, as Amended, of the City of Malden, to alter, structurally change and extend preexisting nonconforming property in the Residence B zoning district for continued nursing /convalescent home use and to remove ledge and alter the grade.
4. The following plans and information were submitted in support of the petition:
 - a) Set of plans (10 pages), "SITE DEVELOPMENT PLAN VOA Malden Assisted Living Facility 341 Forest Street, Malden, Massachusetts Special Permit Submittal-December 4, 2014, Revised and Resubmitted-January 14, 2015, Revised and Resubmitted-February 6, 2015, Variance Submission-April 7, 2015, Resubmitted for Special Permit-August 4, 2015, Resubmitted for Special Permit-November 5, 2015" dated December 4, 2014 with revisions dated January 12, 2015, February 6, 2015, April 7, 2015, August 4, 2015, October 29, 2015 and November 5, 2015, prepared by Meridian Associates, Westborough, MA.
 - b) Set of exterior elevations (3 pages), "Forestdale Park Assisted Living Residences 341 Forest Street Malden, MA 02148," dated November 5, 2015, prepared by The Architectural Team, Inc., Chelsea, MA.
 - c) Set of floor plans (5 pages), "Forestdale Park Assisted Living Residences 341 Forest Street Malden, MA 02148," dated November 5, 2015, prepared by The Architectural Team, Inc., Chelsea, MA.
 - d) Narrative, "Special Permit Modification Application VOA Malden Assisted Living Facility 341 Forest Street Malden, Massachusetts," dated November 5, 2015, prepared by Thomas Bierbaum, President and CEO, Volunteers of America, Jamaica Plain, MA, which includes "Modified Traffic Access Management Plan for Construction," dated November 5, 2015 and "NEI VOA Malden Site Logistics Plan 11/5/15."
 - e) "Supplemental Stormwater Management Report VOA Malden Assisted Living Facility 341 Forest Street Malden, Massachusetts," dated November 5, 2015, prepared by Meridian Associates, Westborough MA.
 - f) "VOA Malden Forestdale Park Assisted Living Facility Design Changes to Engineering and Architectural Plans filed on November 5, 2015 with Application for Special Permit Modification," undated, submitted at the public hearing on December 9, 2015, unsigned, prepared by petitioner's attorney, Peter A. Caro, Esq., c/o Casner & Edwards, LLP, Boston, MA.
5. The public hearing complied with statutory notice requirements of Massachusetts General Laws, Chapter 40A, §11.

FINDINGS of FACT (Case #15-22):

The City of Malden Planning Board finds the following facts:

1. Under the revised proposal, petitioner is the same developer and pending owner, pursuant to a Land Disposition Agreement with the City dated June 30, 2014.
2. The property is the site of a two-story principal building, currently vacant and most recently used for a City nursing home, known as McFadden Manor; and the lot is approximately 2.275 acres, with boundaries recently reconfigured pursuant to an Approval Not Required subdivision plan endorsed by the Planning Board on May 13, 2015 and recorded at the Middlesex South Registry of Deeds on May 28, 2015.
3. The property is the subject of a special permit granted in Case #15-09, which amended the special permit granted in Case #15-01, and authorizes: complete renovation of the existing building and the site; construction of a 4 ½ -story "wing" addition to the rear (eastern) side of the existing building; removal of ledge by blasting and alteration of grade to prepare the site for the addition; and use of the renovated, expanded property for an assisted living facility for the elderly, with 80 units/86 beds.
4. No application for a demolition or building permit was filed for work authorized by the prior special permits.

5. The revised proposal includes the previously approved: complete renovation of the existing building and the site; removal of ledge by blasting and alteration of grade to prepare the site for the addition; and use of the renovated, expanded property for an assisted living facility for the elderly, with 80 units/86 beds; however, the revised proposal modifies the previously approved proposal as follows: to reduce the height of the "wing" addition from 4 ½ stories to 3 ½ stories; to extend the footprint of the addition by approximately sixty feet to the south and increase the total footprint of the addition from 8,959 square feet to 12,188 square feet; and to increase the total gross floor area of the new facility from 77,522 square feet to 82,987 square feet.
6. The revised proposal involves modifications of the height and architectural design of the proposed addition, which are being requested in order to comply with regulations and approval of the National Park Service, which administers the federal historic tax credit program being used to finance the project.
7. Given the reduction in stories, the proposed increase in the building's footprint is necessary to maintain the same number of units as previously approved by prior special permits.
8. To accommodate proposed changes in the building's footprint, the revised site plan includes minor changes to the patio, landscape plantings, and location of generator and transformer.
9. Under the revised proposal, the size of the stormwater system increased to accommodate the increased size of the building's footprint.
10. Under the revised proposal, the proposed extension of the addition is located in an area previously proposed for landscaping and open space.
11. The revised proposal includes a loading service ramp, to be used to bring trash from the building to the dumpster.
12. The revised proposal includes architectural design changes to the façade of the proposed addition, such as white wood clapboards, similar to the existing "Director's House" building, and brick.
13. The subject property is located in the Residence B zoning district.
14. The revised proposal extends the most recent use of the property, nursing/convalescent home, which is allowed by right in this district, per §300.3.2.6 of the Ordinance.
15. Direct abutters to the north and south are multifamily residential dwellings containing two stories and 85 units, owned and operated by the Malden Housing Authority as senior housing; to the east, is a public elementary school (K-8), the Forestdale School; and to the west, on the other side of Forest Street, are single-family dwellings.
16. Surrounding land uses are residential, consisting of mostly single-family dwellings, a few two-family dwellings and multifamily dwellings used as public senior housing.
17. The revised proposal is not in conflict with abutting or surrounding land uses.
18. The revised proposal increases the previously approved violations of the northern side yard setback and height of new retaining walls on the northern side of the property; decreases the previously approved violation of building height; and creates a new violation of the southern side yard setback, per §§400.1.4.7 and 400.7.8 of the Ordinance.
19. The revised proposal maintains the same, previously approved preexisting nonconforming concrete retaining wall along the southern property line that is approximately nine feet in height, in violation of §400.7.8 of the Ordinance; and maintains approximately the same, previously approved location of the subsurface stormwater system structures in yard areas, in violation of §400.7.4 of the Ordinance.
20. On November 19, 2015, the Board of Appeal amended the variance previously granted on April 30, 2015 to address the new nonconformities of dimensional controls created by the revised proposal.
21. The revised proposal provides 41 parking spaces and one loading space and maintains the same, previously approved: deficiency of number of onsite parking spaces, namely, two parking spaces or 5 %; nonconforming layout and deficiency of width of the parking aisle in the southwestern parking lot; and nonconforming grade of four spaces in the southern lots, per §§500.1.4.5, 500.2.2, 500.2.15.1 and 700.1.1 of the Ordinance.
22. Given the increased size of the footprint of the addition, the revised proposal requires removal of approximately 1,300 additional cubic yards of ledge, with a duration of an additional 10 to 15 days; and under the revised proposal, a total of 4,300 cubic yards of ledge will be removed, with a duration of 40 to 45 days.
23. According to petitioner, the revised proposal will employ the same, previously approved means and methods to remove ledge and the same blasting plan; and the Fire Chief has received supplemental information, as requested.
24. The developer and its blasting manager held an informational meeting with the Fire Chief, Ward City Councilor and parents/guardians of students of the Forestdale School and residential abutters on June 11, 2015, as required by Condition 15 of the prior special permits.
25. The City Council held a public hearing on June 16, 2015 regarding a blasting permit, as per Condition 14 of the prior special permits.
26. The Fire Chief issued a permit for drilling and blasting for ledge removal on June 17, 2015, however, to date, no work has started.
27. Whereas the revised proposal is for the same, previously approved use, number of units, approximate total size of the facility, parking layout and on-site circulation patterns, the revised proposal is presumed to have the same overall traffic impact, which was peer reviewed by the City and mitigated as recommended, pursuant to prior special permits.

28. The amount of ledge that may be temporarily stored onsite is limited given the size of the site, and the blasting operation will require a certain amount of ledge and materials to be kept onsite to be performed safely.
29. The Traffic Access Management Plan for Construction incorporated by reference into the prior special permits by Condition 26, will be amended to provide that any modifications to the Plan will be subject to review and approval by the City of Malden, acting through the Malden Traffic Commission, and written notice of any modification must be provided to the Malden Planning Board.
30. According to the City Solicitor, modifications of the project must comply with the requirements of the Ordinance and state zoning statute regarding notice and the public hearing process governing special permits.
31. The City Engineer reviewed the revised proposal and recommends requirements regarding the existing water and sewer service lines and all utility work, as described in email correspondence dated December 9, 2015.
32. The Malden Board of Health reviewed the revised proposal and recommends requirements regarding grading, dumpsters and extermination, as described in correspondence dated January 12, 2015 and email correspondence dated December 7, 2015.
33. The proposed dumpster will be screened, enclosed and provide gates for pedestrian and vehicular access.
34. The Ward 5 City Councilor is in favor of the revised proposal, as modified by conditions of the special permit.
35. The Malden Public Schools is in favor of the revised proposal, however, the Superintendent requests that the developer and construction manager meet weekly with the Forestdale School Principal, Malden Housing Authority Director and Ward 5 City Councilor to discuss and resolve any issues during ledge removal and commercial construction.
36. The Malden Redevelopment Authority is in favor of the revised proposal.
37. The Malden Historic Commission is in favor of the revised proposal.
38. There is no public opposition to the revised proposal.
39. As modified by conditions of the special permit, the revised proposal will not be detrimental to the neighborhood.
40. As modified by conditions of the special permit, the revised proposal will not adversely affect the general welfare or public safety.
41. Petitioner consents to all conditions of this special permit.

DECISION (Case #15-22):

Pursuant to the foregoing Findings of Fact, the Planning Board moved to amend the special permit granted in Case #15-09 and to grant a new special permit subject to the following 30 conditions, and the motion passed:

1. The development rights authorized by this special permit may be exercised only by Volunteers of America of Massachusetts, Inc. ("VOA") or such other parties as permitted under the Land Disposition Agreement dated June 30, 2014 between VOA and the City, as the same may be amended.
2. The property shall be used exclusively for an assisted living facility and/or nursing or convalescent home containing a maximum of 80 units with 86 beds used as follows: 59 beds for residents who require daily assisted living services; 23 beds for residents who require "memory care services;" and four beds for residents who require assisted living services on an as-needed basis; number of beds in each care category may be adjusted $\pm 10\%$.
3. Occupancy of all units shall be restricted to elderly persons of a minimum age of 55.
4. All amenity services, i.e., fitness center, beauty/barber, shall be for use of residents only and shall be accessory to the principal assisted living facility/nursing/convalescent home use.
5. All development shall be as per revised plans, dated November 5, 2015, except as modified by these conditions, including ledge removal; and except minor modifications of landscaping, exterior building façades, windows, floor plans, site grading and location of generator, transformer and loading service ramp, and minor changes in yard setbacks (maximum 5% change), may be allowed, subject to reasonable approval of the Building Inspector.
6. Excluding routine utility work, all ledge/rock removal may be by blasting only, with only accessory use of hydraulic drill, hoe-ram & excavator.
7. Ledge may be reused onsite; a maximum of 50 cubic yards (total size of pile or piles) may be kept onsite for no longer than 48 hours, excluding ledge required to support the on-going blasting operation; and ledge may not be processed, crushed or reconfigured onsite.
8. Conduct pre-ledge removal video survey of all buildings within 300-feet of the property lines of the subject property and all buildings on Forest Court and provide video survey to property owner.
9. During any ledge removal activity, place seismograph on site and at the following properties: Forestdale School (74 Sylvan Street); Malden Housing Authority housing (2-32 Sylvan Street and 377-427A Forest Street); nearest residential dwelling on Forest Street and/or Forest Court; and a fourth location to be determined by Malden Fire Chief; submit seismograph tapes to Fire Chief for review daily.
10. Maintain liability insurance of a minimum of \$1,000,000.00/\$3,000,000.00, with the City of Malden named as a loss-payee.
11. During site development, hire fire details as the Fire Chief deems appropriate in his reasonable discretion.
12. During site development, hire police details as the Police Chief deems appropriate in his reasonable discretion.

13. Deliver written notice to all premises within 300 feet of the property lines of the subject property and all premises on Forest Court, indicating the date (s) ledge removal activity will be conducted and daily hours.
14. Prior to issuance of a blasting permit, the developer and its blasting manager will attend a public hearing by the City Council, in accordance with Section 3.5C of the City Ordinances.
15. Prior to issuance of a blasting permit, the developer and its blasting manager shall hold an informational meeting with the Fire Chief, Ward City Councilor and parents/guardians of students of Forestdale School and residential abutters.
16. Hours for blasting operations shall be determined by Malden Fire Chief; hours for commercial construction, including mechanical means of ledge removal, are restricted to Monday through Saturday, 7:00 a.m. to 5:00 p.m.
17. All retaining walls must comply with Section 700.10 of this Ordinance.
18. During site development, implement erosion controls as per plan.
19. Install and maintain stormwater management system as per plans and Stormwater Management Report dated December 4, 2014 and Supplemental Stormwater Management Report dated November 5, 2015, minor modification allowed subject to reasonable approval of City Engineer; implement "Stormwater Management Operation and Maintenance Plan," described in Report dated December 4, 2014 by Meridian Associates.
20. Cut and cap existing water service line at main pipe in Forest Street.
21. Perform camera inspection of two existing sewer service lines, and if determined to be necessary by City Engineer, replace with new pvc pipe.
22. Comply with all requirements regarding grading, extermination and dumpsters described in correspondence dated January 12, 2015 from Malden BOH.
23. The boundaries of the property are depicted on the Approval Not Required subdivision plan endorsed by the Planning Board on May 13, 2015 and recorded at the Middlesex South Registry of Deeds on May 28, 2015 as Plan No. 373 of 2015; no further subdivision shall be allowed.
24. Prior to issuance of an occupancy permit, implement the following mitigation and safety measures: a) install STOP signs and lines at all site driveways; b) to increase site distance, the existing stone wall at northwestern corner of site (at Forest Street and shared driveway north of site) will be reduced in height a minimum of 18 inches, and any alternate modification, including relocation, shall require submission of site distance diagrams and shall be subject to reasonable approval of City's peer reviewer; c) install sight distance warning signage on Forest Street with size, message/image, and advance distance from the shared drive north of site, in accordance with Manual on Uniform Traffic Control Devices and approved by Malden Traffic Commission; d) install mirror(s) on Forest Street, opposite shared driveway north of site, size and location approved by Malden Traffic Commission; e) design and maintain signs and landscaping adjacent to site driveways to avoid sight line restrictions; f) restripe crosswalks on Forest Street and Sylvan Street near site; install and maintain pedestrian crossing walkway markings across parking areas, site driveways, school driveway (east of site) and shared driveway north of site.
25. During all phases of ledge removal and commercial construction, the developer and its construction manager shall meet weekly with the Forestdale School Principal, Malden Housing Authority Director and Ward 5 City Councilor to discuss and resolve any issues regarding construction and/or ledge removal.
26. The Traffic Access Management Plan for Construction dated December 9, 2015 is incorporated herein by reference and shall remain in effect during all ledge removal and commercial construction.
27. Repair, grind and repave roadway from Malden-Melrose cityline to southerly side of Sylvan Street; and repair and/or replace sidewalks on Forest Street abutting the site to the reasonable satisfaction of the DPW Director.
28. Install a minimum of seven parking spaces adjacent to school driveway off Sylvan Street, on land owned by Malden Housing Authority and/or City of Malden, as per plans.
29. All utility work shall be done to the satisfaction of the City Engineer.
30. This special permit shall amend the special permits issued in Cases ##15-01 and 15-09, and in the event of any inconsistency between this special permit and those prior special permits, the terms of this special permit shall govern and control.

RECORD of VOTES (Case #15-22):

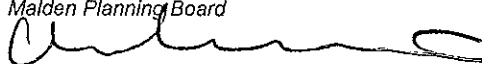
The vote on the motion to grant a special permit with 30 conditions was nine in favor, none opposed:

Antonucci, yes; Chiu, yes; Chuha, yes; Fitzgerald, yes; Hayes, yes; MacCuish, yes; Mzaouaak, yes; Wolff, yes; Ioven, yes.

[Absent: Henry, Lawhorne]

I, Michelle A. Romero, City Planner for the City of Malden, hereby certify that the above is a true copy of the decision of the Malden Planning Board.

Malden Planning Board

By: 
Michelle A. Romero, City Planner